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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,131	11/05/1999	HIROSHI KAWAKAMI	3815/90	6371

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EXAMINER

HOM, SHICK C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 09/16/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,131

Applicant(s)

KAWAKAMI ET AL.

Examiner

Shick C Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-19 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 03/06/98. It is noted, however, that applicant has not filed a certified copy of the 10-055088 application as required by 35 U.S.C. 119(b).

In response to page 8 lines 7-14 of the amendment, applicant is required to provide a certified copy of the 10-055088 application to meet condition 35 U.S.C. 119(a-d) for claim of foreign priority.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2-5 and 9-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Itoh.

Regarding claim 2:

Itoh discloses the radio base station (col. 4 line 64 to col. 5 line 8) comprising a traffic control unit, the traffic control unit comprising: receiving means for receiving data; traffic control means for carrying out traffic control of the data received by said receiving means; and transmission means for transmitting the data passing through the traffic control by said traffic control means (col. 7 lines 22-56, col. 14 lines 30-49, and col. 18 lines 4-26), wherein said traffic control means carries out traffic control of data to be transmitted to a local switch through a transmission path between the radio base station and the local switch for transmitting data between the radio base station and the local switch, from among the data received by said receiving means (col. 6 lines 45-63 and col. 8 lines 12-32).

Regarding claim 3:

Itoh discloses wherein said data takes place in a burst mode (col. 5 lines 9-17 and col. 8 lines 12-32) at a period proper to the data, and wherein said traffic control means

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carries out, for the data received by said receiving means, the traffic control such that a cumulative transmission volume in a traffic monitoring period defined by taking account of the proper period does not exceed a volume based on a traffic rate (col. 29 lines 10-37).

Regarding claim 4:

Itch discloses the traffic control unit for carrying out traffic control of data taking place in a burst mode (col. 5 lines 9-17 and col. 8 lines 12-32) at a period proper to the data, said traffic control unit comprising: receiving means for receiving the data; traffic control means for carrying out the traffic control for the data received by said receiving means such that a cumulative transmission volume in a traffic monitoring period defined by taking account of said proper period does not exceed an allowed transmission volume based on a traffic rate; and transmission means for transmitting the data controlled by said traffic control means (col. 7 lines 22-56, col. 14 lines 30-49, col. 18 lines 4-26, and col. 29 lines 10-37).

Regarding claim 5:

Itch discloses wherein said traffic control means carries out, for the data received by said receiving means, peak traffic control (col. 35 lines 30-35) such that a cumulative

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transmission volume in a peak traffic monitoring period defined by taking the account of the proper period does not exceed an allowed transmission volume based on a peak traffic rate, and sustainable traffic control such that a cumulative transmission volume in a sustainable traffic monitoring period defined by taking the account of the proper period does not exceed an allowed transmission volume based on a sustainable traffic rate (col. 29 lines 10-37).

Regarding claim 9:

~~Itoh discloses the traffic control (col. 18 lines 4-26)~~ method for carrying out traffic control of data in a first shared resource of a network including besides the first shared resource, a second shared resource (col. 12 lines 14-25) and a local switch (col. 8 lines 12-32), which are shared by a plurality of users, said traffic control method comprising the steps of receiving the data; carrying out traffic control of data to be transmitted to said local switch through said second shared resource from among the data received; and transmitting the data passing through the traffic control, wherein the first shared resource is a radio base station (col. 4 line 64 to col. 5 line 8), or a transmission path between the radio base station and the local switch for transmitting data between the radio base station and the local switch, and the second shared

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resource includes at least a part of the transmission path between the radio base station and the local switch (col. 7 lines 22-56, col. 14 lines 30-49, col. 18 lines 4-26).

Regarding claim 10:

Itoh discloses the traffic control method (col. 18 lines 4-26) for carrying out traffic control of data taking place in a burst mode (col. 5 lines 9-17 and col. 8 lines 12-32) at a period proper to the data, said traffic control method comprising the steps of receiving the data; carrying out the traffic control of the data received such that a cumulative transmission volume in a traffic monitoring period defined by taking account of the proper period does not exceed an allowed transmission volume based on a traffic rate; and transmitting the data passing through said traffic control (col. 7 lines 22-56, col. 14 lines 30-49, col. 18 lines 4-26).

Regarding claim 11:

Itoh discloses the LAN (col. 1 lines 11-16) comprising a traffic control unit, the traffic control unit comprising: receiving means for receiving data; traffic control means for carrying out traffic control of the data received by said receiving means; and transmission means for transmitting the data passing through the traffic control by said traffic control

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means (col. 7 lines 22-56, col. 14 lines 30-49, and col. 18 lines 4-26).

Regarding claim 12:

Itoh discloses wherein said traffic control means carries out traffic control of data to be transmitted to a local switch through a transmission path between the LAN and the local switch for transmitting data between the LAN and the local switch, from among the data received by said receiving means (col. 6 lines 45-63 and col. 8 lines 12-32).

Regarding claim 13:

Itoh discloses the PBX (col. 8 lines 12-32) comprising a traffic control unit, the traffic control unit comprising: receiving means for receiving data; traffic control means for carrying out traffic control of the data received by said receiving means; and transmission means for transmitting the data passing through the traffic control by said traffic control means (col. 7 lines 22-56, col. 14 lines 30-49, and col. 18 lines 4-26).

Regarding claim 14:

Itoh discloses wherein said traffic control means carries out traffic control of data to be transmitted to a local switch through a transmission path between the PBX and the local switch for transmitting data between the PBX and the local switch, from

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among the data received by said receiving means (col. 6 lines 45-63 and col. 8 lines 12-32).

Regarding claim 15:

Itoh discloses the gateway switch (col. 6 lines 45-63) comprising a traffic control unit, the traffic control unit comprising: receiving means for receiving data; traffic control means for carrying out traffic control of the data received by said receiving means; and transmission means for transmitting the data passing through the traffic control by said traffic control means (col. 7 lines 22-56, col. 14 lines 30-49, and col. 18 lines 4-26).

Regarding claim 16:

Itoh discloses wherein said traffic control means carries out traffic control of data to be transmitted to a local switch through a transmission path between the gateway switch and the local switch for transmitting data between the gateway switch and the local switch, from among the data received by said receiving means (col. 6 lines 45-63 and col. 8 lines 12-32).

Regarding claim 17:

Itoh discloses the traffic control method (col. 18 lines 4-26) for carrying out traffic control of data in a first shared resource of a network (col. 8 lines 12-32, col. 12 lines 14-25) including besides the first shared resource, a second shared

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resource and a local switch (col. 8 lines 12-32), which are shared by a plurality of users, said traffic control method comprising the steps of: receiving the data; carrying out traffic control of data to be transmitted to said local switch through said second shared resource from among the data received; and transmitting the data passing through the traffic control, wherein the first shared resource is a LAN (col. 1 lines 11-16), or a transmission path between the LAN and the local switch for transmitting data between the LAN and the local switch, and the second shared resource includes at least a part of the transmission path between the LAN and the local switch (col. 7 lines 22-56, col. 8 lines 12-32, col. 14 lines 30-49, col. 18 lines 4-26).

Regarding claim 18:

Itoh discloses the traffic control method (col. 18 lines 4-26) for carrying out traffic control of data in a first shared resource of a network (col. 8 lines 12-32, col. 12 lines 14-25) including besides the first shared resource, a second shared resource and a local switch, which are shared by a plurality of users, said traffic control method comprising the steps of receiving the data; carrying out traffic control of data to be transmitted to said local switch through said second shared resource from among the data received; and transmitting the data

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passing through the traffic control, wherein the first shared resource is a PBX (col. 8 lines 12-32), or a transmission path between the PBX and the local switch for transmitting data between the PBX and the local switch, and the second shared resource includes at least a part of the transmission path between the PBX and the local switch (col. 7 lines 22-56, col. 14 lines 30-49, col. 18 lines 4-26).

Regarding claim 19:

Itoh discloses the traffic control method (col. 18 lines 4-26) for carrying out traffic control of data in a first-shared resource of a network (col. 8 lines 12-32, col. 12 lines 14-25) including besides the first shared resource, a second shared resource and a local switch, which are shared by a plurality of users, said traffic control method comprising the steps of receiving the data: carrying out traffic control of data to be transmitted to said local switch through said second shared resource from among the data received; and transmitting the data passing through the traffic control, wherein the first shared resource is a gateway switch, a transmission path (col. 6 lines 45-63) between the gateway switch and the local switch for transmitting data between the gateway switch and the local switch, or a transmission path between the gateway switch and another network other than said network for transmitting data

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between the gateway switch and said another network, and the second shared resource includes at least a part of the transmission path between the gateway switch and the local switch (col. 7 lines 22-56, col. 14 lines 30-49, and col. 18 lines 4-26).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

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U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of Kim.

For claim 8 Itoh discloses the traffic control unit described in paragraph 4 of this office action.

For claim 8 Itoh discloses all the subject matter of the claimed invention with the exception of wherein said data consists of ATM cells generated from a radio frame, and said proper period equals a radio frame period.

Kim from the same or similar fields of endeavor teach that it is known to provide the traffic control unit as claimed in claim 4, wherein said data consists of ATM cells generated from a radio frame, and said proper period equals a radio frame period (col. 1 lines 18-22, col. 11 lines 32-44). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the traffic control unit as claimed in claim 4, wherein said data consists of ATM cells generated from a radio frame, and said proper period equals a radio frame period as taught by Kim in the traffic control unit of Itoh. The ATM cells can be implemented by connecting the traffic control unit to the ATM network of Kim. The motivation for using the ATM network as

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taught by Kim in the traffic control unit of Itoh being that it provides a system in which the traffic control unit can function as designed.

Allowable Subject Matter

8. Claims 6 and 7 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

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from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications;
please mark "EXPEDITED PROCEDURE")

Or:

(for informal or draft communications, please
label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal
Park II, 2121 Crystal Drive, Arlington. VA., Sixth
Floor (Receptionist).

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Shick Hom
whose telephone number is (703) 305-4742. The examiner's

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regular work schedule is Monday to Friday from 8:00 am to 5:30 pm EST and out of office on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at (703) 308-5463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



D'ANGTON
PRIMARY EXAMINER

SH

September 6, 2003